

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Public Works Construction Projects

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PURPOSE:

To establish a policy for minor Change Order; addenda to Contract Documents, Plans and Specifications; Substitution of Subcontractors, the Selection and Employment of Private Contractors for Construction projects, Partnering and Mediation.

BACKGROUND:

State law and County Administrative Code provide for certain delegation of authority and flexibility for Public Works Construction Projects. All reference to the Board of Supervisors shall include their roles as the Board of Directors of County Special Districts.

POLICY:

I. Addenda:

It is the policy of the Board of supervisors that the Director of Public Works, the Director of General services, Director of Parks and Recreation, and the Purchasing and Contracting Director are authorized to approve addenda to contract documents, plans, specifications, and advertisements as needed in order to correct ambiguities, errors and omissions, but never to make material modification.

II. Substitution of Subcontractors:

It is the policy of the Board of Supervisors that: In accomplishing construction contracts, when the prime contractor requests the substitution of a listed subcontractor as permitted in Public Contract Code, Section 4107, the duly authorized office shall be the Director of General Services, Director of Parks and Recreation, or the Director of Public Works, for the construction contracts administered by their respective departments.

In every case when the prime contractor requests a substitution, the duly authorized officer shall ascertain that the reason for the substitution is permitted in Public Contract Code, Section 4107; the duly authorized officer shall notify the listed subcontractor by certified or registered mail as stipulated and, if no written objection is filed, shall determine that such failure to file a written objection constitutes consent to the substitution.

In the event that the listed subcontractor files a written objection within the allowed time, the duly authorized officer shall advise the Awarding Authority to arrange for a hearing date and the Awarding Authority shall advise the subcontractor of the time and place of the hearing by certified or registered mail at least five working days ahead of such

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hearing. The Awarding Authority shall approve or disapprove the proposed substitution at said hearing.

III. Minor change Order Policy:

It is the policy of the Board of Supervisors that in accomplishing Public Works contract work, minor changes to the work shall be accomplished as follows:

A. Construction Contracts:

The Director of Public Works, Director of Parks and Recreation, Director of General Services, and the Purchasing and Contracting Director are authorized to order changes to the work pursuant to Section 20142 of the California Public Contract Code.

B. Improvement Act Contracts:

The Director of Public Works is authorized to order changes to the work pursuant to Section 20455 of the Public Contract Code.

C. Road Contracts:

The Director of Public Works is authorized to execute changes for any contract for work upon county highways, pursuant to Section 20395 of the Public Contract Code.

D. Sanitation District Projects:

The Director of Public Works is authorized to order changes in work pursuant to Section 20142 of the Public Contract Code.

E. Flood Control District Projects:

The Director of Public Works is authorized to order changes in work pursuant to the limits set in Section 21551(b) & (c) of the Public Contract Code.

F. Extensions of Time:

In no case shall any minor change order grant an extension of time for performance of the contract which exceeds 40 working days for "working day" contracts, or 60 calendar days for "calendar day" contracts.

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IV. Selection and Employment of Private Contractors for Construction Projects:

A. A formal bidding and contracting process shall be employed in accordance with the Public Contract Code.

B. The Director of Public Works is authorized to purchase materials and let contracts for work or, let contracts covering both work and materials without advertising for bids for emergency work pursuant to Section 20395(e) and Section 22050 of the Public Contract Code, County Charter Section 705 and County Administrative Code Section 93.1.1.

C. County labor force shall be maintained at a level adequate to accomplish routine maintenance and repair, and to permit appropriate response in emergency situations. To obtain most efficient use of public funds, County forces shall be used to the maximum extent of their availability on selected, small construction projects.

V. Partnering:

It is the policy of the Board of Supervisors that all complex construction contracts, as determined by the department directors, over \$2 million shall contain a clause offering contractors the opportunity to enter into Partnering agreements.

VI. Mediation:

It is the policy of the Board of Supervisors that all construction contracts employing the competitive bid process, except for minor projects described in Sections 20121, 20122 and 20123 of the Public Contract Code, shall contain a clause making mediation mandatory for any unresolved disputes prior to their being taken to formal arbitration or litigation by any party. Mediation shall be subject to the following conditions:

A. Mediation will be conducted at the completion of work, unless a claim exceeds \$25,000 and the project has in excess of four months remaining until completion, or unless all parties agree that immediate mediation is required.

B. All claims must comply with the False Claims Act.

C. Mediation shall not be a condition of the County's right to terminate contracts for cause or convenience.

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D. Meditation shall be non-binding and inadmissible in any subsequent legal proceedings.

VII. Other Applicable Policies:

A. Board of Supervisors Policy B-39, Minority and Women Business Enterprise (MWBE) Program.

B. Board of Supervisors Policy B-39A, Disabled Veterans Business Enterprise (DVBE) Program.

C. Board of Supervisors Policy A-97, Protest Procedures for Award of Contracts.

D. Board of Supervisors Resolution No. 85 adopted August 22, 1978.

VIII. Changes:

In the event that the limitations or conditions contained in the codes applicable to this policy are changed or repealed by action of the legislature, the limitations or conditions contained in this policy shall likewise be changed or repealed.

RESPONSIBLE DEPARTMENTS:

1. Department of Public Works
2. Department of Parks and Recreation
3. Department of General Services
4. Auditor and Controller

SUNSET DATE:

This policy will be reviewed for continuance by 12/31/09.

BOARD ACTION:

02/24/81(18)

11/13/84(15)

03/22/88(37)

09/26/95(20)

2/11/97 (13)

1/12/99 (4)

08-07-02 (5)